98-048 INS 17- PATIENT'S COMP



of Wisconsin Office of the commissioner of insurance



Tommy G. Thompson Governor MAY 2 8 1998

121 East Wilson Street P.O. Box 7873 Madison, Wisconsin 53707-7873

(608) 266-3585

http://badger.state.wi.us/agencies/oci/oci_home.htm

Randy Blumer Commissioner (Acting) May 20, 1998

HONORABLE SENATOR ROBERT WELCH SENATE CO-CHAIRPERSON JOINT COMM FOR REVIEW OF ADM RULES 1 EAST MAIN ST RM 201 MADISON WI 53702

Re: Rule, Section Ins 17.01(3)(intro.),17.28(4)(cm),17.28(6a),

17.35(2b)(title),17.28(6),17.35(2b)(b),(c)and (d)., Wis. Adm. Code, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 1998.

Clearinghouse Rule No. 98-048

Dear Senator Welch:

I am enclosing a copy of this proposed rule which has been submitted to the presiding officers of the legislative houses under s. 227.19 (2), Wis. Stat. A copy of the report required under s. 227.19 (3), Wis. Stat., is also enclosed.

Best Regards,

Randy Blumer

Commissioner of Insurance

RB:AS

Attachment: 1 copy rule & legislative report



of Wisconsin Office of the Commissioner of Insurance



121 East Wilson Street

Tommy G. Thompson Governor

Randy Blumer Commissioner (Acting) May 18, 1998

P.O. Box 7873 Madison, Wisconsin 53707-7873 (608) 266-3585

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REPORT ON Section Ins 17.01(3)(intro.),17.28(4)(cm),17.28(6a), 17.35(2b)(title),17.28(6),17.35(2b)(b),(c)and (d)., Wis. Adm. Code, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 1998.

Clearinghouse Rule No 98-048 Submitted Under s. 227.19 (3), Stats. The proposed rule-making order is attached.

(a) Statement of need for the proposed rule

The Commissioner is required to promulgate by rule the annual fees for the patients compensation fund and the mediation system operated by the director of state courts. This rule establishes those fees for the fiscal year 1998-99 in s. Ins. 17.28(6), limits fund fee refund requests to the current or prior fiscal year only is s. Ins. 17.28(4) and sets standards for the application of the aggregate underlying liability limits upon the termination of a claims-made policy in s. Ins. 17.35.

- (b) Modifications made in proposed rule based on testimony at public hearing:
 None
- (c) Persons who appeared or registered regarding the proposed rule:

Appearances For: None

Appearances Against: None

Appearances For Information: Theresa Wedekind, Administrator,

Patients Compensation Fund

Registrations For: None

Registrations Against: None

Registrations Neither for nor against: None

Letters received: None

(d) Response to Legislative Council staff recommendations

All comments were complied with and corrected.

(e) Regulatory flexibility analysis

- 1. No issues were raised by small businesses during the hearing on the proposed rule.
- 2. The proposed rule does not impose any additional reporting requirements on small businesses.
- 3. The proposed rule does not require any additional measures or investments by small businesses.

(f) Fiscal Effect

See fiscal estimate attached to proposed rule.

Attachment: Legislative Council Staff Recommendations May 15, 1998

WISCONSIN LEGISLATIVE COUNCIL STAFF



RULES CLEARINGHOUSE

Ronald Sklansky Director (608) 266-1946

Richard Sweet Assistant Director (608) 266–2982



David J. Stute, Director Legislative Council Staff (608) 266-1304

One E. Main St., Ste. 401 P.O. Box 2536 Madison, WI 53701-2536 FAX: (608) 266-3830

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 98-048

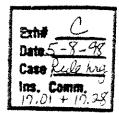
AN ORDER to amend Ins 17.01 (3) (intro.), 17.28 (4) (cm) and (6a) and 17.35 (2b) (title); to repeal and recreate Ins 17.28 (6) and 17.35 (2b) (b); and to create Ins 17.35 (2b) (c) and (d), relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 1998, to limit fund fee refund requests to the current and immediate prior year only and to establish standards for the application of the aggregate underlying liability limits upon the termination of a claims—made policy.

Submitted by OFFICE OF THE COMMISSIONER OF INSURANCE

03–13–98 RECEIVED BY LEGISLATIVE COUNCIL.

04–02–98 REPORT SENT TO AGENCY.

RNS:GAA:kjf;ksm



WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 98-048

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

2. Form, Style and Placement in Administrative Code

- a. The titles to ss. Ins 17.28 (4) (cm) and (6a) and 17.35 (2b) (b) 1. and 2. are not in proper format. [See s. 1.05 (2), Manual.]
- b. The material in Section 4 should follow Section 5 so that the provisions affected are shown in numerical order.

PROPOSED ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE AND THE BOARD OF GOVERNORS OF THE PATIENTS COMPENSATION FUND AMENDING AND REPEALING AND RECREATING A RULE

The office of the commissioner of insurance and the board of governors of the patients compensation fund propose an order to amend s. Ins 17.01 (3) (intro.), s. Ins 17.28 (4) (cm), s. Ins 17.28 (6a), and s. Ins 17.35 (2b) (title), to repeal and recreate s. Ins 17.28 (6) and s. Ins 17.35 (2b) (b), and to create s. Ins 17.35 (2b) (c) and (d), relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 1998, to limit fund fee refund requests to the current and immediate prior year only, and to establish standards for the application of the aggregate underlying liability limits upon the termination of a claims-made policy.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE

Statutory authority: ss. 601.41 (3), 655.004, 655.23 (4), 655.27 (3) (b) and 655.61, Stats.

Statutes interpreted: ss. 655.27 (3) and 655.23 (4), Stats.

The commissioner of insurance, with the approval of the board of governors (board) of the patients compensation fund (fund), is required to establish by administrative rule the annual fees which

participating health care providers must pay to the fund. This rule establishes those fees for the fiscal year beginning July 1, 1998. These fees incorporate changes to class 2 and 3 relativities based on experience factors with an overall impact of zero compared with fees paid for the 1997-98 fiscal year. The board approved this change in relativities with no overall increase in fees at its meeting on February 25, 1998, based on the recommendation of the board's actuarial and underwriting committee.

The board is also required to promulgate by rule the annual fees for the operation of the patients compensation mediation system, based on the recommendation of the director of state courts. This rule implements the director's funding level recommendation by establishing mediation panel fees for the next fiscal year at \$16.00 for physicians and \$1.00 per occupied bed for hospitals, representing a 50% decrease from 1997-98 fiscal year fees.

This rule also limits fund fee refunds to the current fiscal year and the immediate prior fiscal year in s. Ins 17.28 (4) (cm). This rule in s. Ins 17.35 (2b) (b), (c) and (d) sets standards for the application of the aggregate underlying liability limits upon the termination of a claims-made policy based on the actuarial equivalence of an occurrence policy.

SECTION 1. Ins 17.01 (3) (intro.) is amended to read:

Ins 17.01 (3) FEE SCHEDULE. (intro.) The following fee schedule shall be effective July 1, 1997 1998.

SECTION 2. Ins 17.28 (4) (cm) is amended to read:

Ins 17.28 (4) (cm) Eligibility for exemption; refund. If a provider claims an exemption after paying all or part of the annual fee, the fund shall issue a refund equal to one twenty-fourth of the provider's annual fee for each full semi-monthly period from the date the provider becomes eligible for the exemption to the due date of the next payment. The refund for any past exemption period will be limited to the current fiscal year and the immediate prior fiscal year.

SECTION 3. Ins 17.28 (6a) is amended to read:

Ins 17.28 (6a) FEES FOR OCI APPROVED SELF-INSURED HEALTH CARE

PROVIDERS. The following fee schedule is in effect from July 1, 1997 to June 30, 1998 1999 for OCI

approved self-insured health care providers who elect, pursuant to s. 655.23 (4) (c) 2, Stats., to increase their per occurrence limit to \$600,000 for each occurrence on or after July 1, 1997, provided such self-insured provider has filed an amended self-insured plan document reflecting the increased coverage levels with the office of the commissioner of insurance and with the patients compensation fund on or before August 15, 1997:

The fees set forth in sub. (6) multiplied by 1.161.

SECTION 4. Ins 17.28 (6) is repealed and recreated to read:

Ins 17.28 (6) FEE SCHEDULE. The following fee schedule is in effect from July 1, 1998, to June 30, 1999:

(a) Except as provided in pars. (b) to (g) and sub. (6e), for a physician for whom this state is a principal place of practice:

Class 1	\$2,721	Class 3	\$11,292	
Class 2	\$5 170	Class 4	\$16.326	

(b) For a resident acting within the scope of a residency or fellowship program:

Class 1 \$1,361 Class 3 \$5,648 Class 2 \$2.586 Class 4 \$8,166

(c) For a resident practicing part-time outside the scope of a residency or fellowship program:

All classes \$1,633

(d) For a medical college of Wisconsin, inc., full-time faculty member:

Class 1 \$1,088 Class 3 \$4,515 Class 2 \$2,067 Class 4 \$6,528

- (e) For a physician who practices fewer than 500 hours during the fiscal year, limited to office practice and nursing home and house calls, and who does not practice obstetrics or surgery or assist in surgical procedures:

 \$680
 - (f) For a physician for whom this state is not a principal place of practice:

Class 1 \$1,361 Class 3 \$5,648

	Class 2	\$2,586	Class 4	\$8,166
	(g) For a nurse anes	sthetist for whom	this state is a princ	cipal place of
practice:				\$678
	(h) For a nurse anes	sthetist for whom	this state is not a	orincipal place of
practice:				\$339
	(i) For a hospital:			
	1. Per occupied bed			\$167; plus
	2. Per 100 outpatien	t visits during the	last calendar yea	r for which totals are
available.				\$8.35
	(j) For a nursing hon	ne, as described	under s. 655.002 (1) (j), Stats., which is wholly owned
and opera	ted by a hospital and v	vhich has health	care liability insura	ince separate from that of the
hospital by	which it is owned and	d operated:		
	Per occupi	ed bed		\$31
	(k) For a partnership	comprised of ph	ysicians or nurse	anesthetists, organized for the
primary pu	urpose of providing the	medical services	s of physicians or r	nurse anesthetists, all of the
following f	ees:			
	1. a. If the total num	ber of partners ar	nd employed phys	icians and nurse anesthetists is from
2 to 10				\$95
	b. If the total numbe	r of partners and	employed physicia	ans and nurse anesthetists is from
11 to 100				\$947
	c. If the total number	r of partners and	employed physicia	ans and nurse anesthetists
exceeds 1	00			\$2,368
	2. The following fee	for each of the fo	llowing employes	employed by the partnership as of
July 1, 199	98:			
	Employed Healti	n Care Persons	Ju	lly 1, 1998 Fund Fee
	Nurse Practitioner			\$ 680

Advanced Nurse Practitioner

952

Nurse Midwives	5,986
Advanced Nurse Midwives	6,258
Advanced Practice Nurse Prescribers	952
Chiropractors	1,088
Dentists	544
Oral Surgeons	4,082
Podiatrists-Surgical	11,564
Optometrists	544
Physician Assistant	544

- (L) For a corporation, including a service corporation, with more than one shareholder organized under ch. 180, Stats., for the primary purpose of providing the medical services of physicians or nurse anesthetists, all of the following fees:
- 1. a. If the total number of shareholders and employed physicians and nurse anesthetists is from 2 to 10 \$95
- b. If the total number of shareholders and employed physicians and nurse anesthetists is from 11 to 100 \$947
- c. If the total number of shareholders and employed physicians or nurse anesthetists exceeds 100 \$2,368
- 2. The following for each of the following employes employed by the corporation as of July 1, 1998:

Employed Health Care Persons	July 1, 1998 Fund Fee
Nurse Practitioner	\$ 680
Advanced Nurse Practitioner	952
Nurse Midwives	5,986
Advanced Nurse Midwives	6,258
Advanced Practice Nurse Prescribers	952
Chiropractors	1,088

Dentists	544
Oral Surgeons	4,082
Podiatrists-Surgical	11,564
Optometrists	544
Physician Assistant	544

- (m) For a corporation organized under ch. 181, Stats., for the primary purpose of providing the medical services of physicians or nurse anesthetists, all of the following fees:
 - 1. a. If the total number of employed physicians and nurse anesthetists is from

1 to 10 \$95

- b. If the total number of employed physicians and nurse anesthetists is from
- 11 to 100 \$947
- c. If the total number of employed physicians or nurse anesthetists exceeds 100 \$2,368
- 2. The following for each of the following employes employed by the corporation as of July 1, 1998:

Employed Health Care Persons	July 1, 1998 Fund Fee
Nurse Practitioner	\$ 680
Advanced Nurse Practitioner	952
Nurse Midwives	5,986
Advanced Nurse Midwives	6,258
Advanced Practice Nurse Prescribers	952
Chiropractors	1,088
Dentists	544
Oral Surgeons	4,082
Podiatrists-Surgical	11,564
Optometrists	544
Physician Assistant	544

- (n) For an operational cooperative sickness care plan as described under s. 655.002 (1) (f). Stats., all of the following fees:
- 1. Per 100 outpatient visits during the last calendar year for which totals are available \$0.20.
 - 2. 2.5% of the total annual fees assessed against all of the employed physicians.
- 3. The following for each of the following employes employed by the operational cooperative sickness plan as of July 1, 1998:

Employed Health Care Persons	July 1, 1998 Fund Fee
Nurse Practitioner	\$ 680
Advanced Nurse Practitioner	952
Nurse Midwives	5,986
Advanced Nurse Midwives	6,258
Advanced Practice Nurse Prescribers	952
Chiropractors	1,088
Dentists	544
Oral Surgeons	4,082
Podiatrists-Surgical	11,564
Optometrists	544
Physician Assistant	544

(o) For a freestanding ambulatory surgery center, as defined in s. Ins 120.03 (10):

Per 100 outpatient visits during the last calendar year for which totals are

available

\$40

- (p) For an entity affiliated with a hospital, the greater of \$100 or whichever of the following applies:
- 1. 7% of the amount the entity pays as premium for its primary health care liability insurance, if it has occurrence coverage.

2. 10% of the amount the entity pays as premium for its primary health care liability insurance, if it has claims-made coverage.

SECTION 5. Ins 17.35 (2b) (title) is amended to read:

Ins 17.35 (2b) (title) AGGREGATE LIMITS; UNLIMITED EXTENDED REPORTING ENDORSEMENTS.

SECTION 6. Ins 17.35 (2b) (b) is repealed and recreated to read:

Ins 17.35 (2b) (b) <u>Highest aggregate limit applies.</u> 1. 'Claims-made coverage' The aggregate limit applicable to all claims reported during a reporting year of a claims-made policy shall be the highest limit specified in s. 655.23 (4) (b), Stats., that applies during the reporting year.

2. 'Occurrence coverage.' The limit applicable to all occurrences during an occurrence year of an occurrence policy shall be the highest limit specified in s. 655.23 (4), Stats., that applies during the occurrence year.

SECTION 7. Ins 17.35 (2b) (c) is created to read:

Ins 17.35 (2b) (c) <u>Unlimited extended reporting endorsements issued before January 1, 1999.</u> Before January 1, 1999, the aggregate limit applicable to an unlimited extended reporting endorsement shall be one of the following:

- 1. The total amount of the annual aggregate limit specified in s. 655.23 (4), Stats., as it applied on the date of the occurrence, shall be available for each occurrence year, less amounts previously paid under any policy for that occurrence year.
- 2. The following minimum percentage of the annual aggregate limit specified in s. 655.23 (4), Stats., as it applied to the last reporting year of the canceled or nonrenewed claims-made policy shall be available for all claims reported under the extended reporting endorsement: 100% when the policy was in effect for 1 year or less, including any retroactive coverage period; 130% when the policy was in effect for more than 1 year, but less than or equal to 2 years, including any retroactive coverage period; 150% when the policy was in effect for more than 2 years, but less than or equal to 3 years, including any retroactive coverage period; 160% when the policy was in effect for more than 3 years, including any retroactive coverage period.

SECTION 8. Ins 17.35 (2b) (d) is created to read:

Ins 17.3 (2b) (d) <u>Unlimited extended reporting endorsements issued on and after January 1, 1999.</u> On and after January 1, 1999 the minimum aggregate limit applicable to an unlimited extended reporting endorsement shall be that specified in subd. (c) 2.

SECTION 9. INITIAL APPLICABILITY. This rule first applies on July 1, 1998.

SECTION 10. <u>EFFECTIVE DATE</u>. This rule will take effect on the first day of the first month after publication, as provided in s. 227.22 (2) (intro), Stats.

Dated at Madison, Wisconsin, this 18th day of May 1998

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Randy Blumer ,

Commissioner of Insurance (Acting)

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FISCAL ESTIMATE	☐ CORRECTED	SUPPLEMENTA	Ins 17.01,17.28	
DOA-2048 N(R10/94)		C SUPPLEMENTA	Amendment No, if Applicable	
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Relating to annual Dating				
Relating to annual Patien	its Compensation Fi	<u>und fees for fis</u>	<u>cal vear 1998-1999</u>	
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Check columns below only if bill n				
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which represents a ze	to bettent increas	e to fiscal year	1997-1998 revenues.	
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Long-Range Fiscal Implications				
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Long-Range Fiscal Implications Agency/Prepared by: (Name & Phone N	ło.) Autho	nized Signature/Telepho	ne No. Oate	· · · · · · · · · · · · · · · · · · ·

FISCAL ESTIMATE WORKSHEET				199	95 Se	ssion	
Detailed Estimate of Annual Fiscal Effect OOA-2047 (R (0)94) Subject	ORIGINAL CORRECTED	UPDATED SUPPLEMENTAL	LR9 or 341 : Ins	No Adm Rule : 17.01, 17	No	Amendme	ot No
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Randy Blumer, Commissioner

${\it END}$



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of Wisconsin Office of the commissioner of insurance



MAY 2 8 1998

Tommy G. Thompson Governor

Randy Blumer Commissioner (Acting) May 20, 1998

121 East Wilson Street P.O. Box 7873 Madison, Wisconsin 53707-7873

(608) 266-3585

http://badger.state.wi.us/agencies/oci/oci_home.htm

HONORABLE SENATOR ROBERT WELCH SENATE CO-CHAIRPERSON JOINT COMM FOR REVIEW OF ADM RULES 1 EAST MAIN ST RM 201 MADISON WI 53702

Re:

Emergency Rule, Sections Ins 17.01 (3) (intro), 17.28 (4) (cm), 17.28 (6a), 17.28 (6), 17.35 (2b) (title), and 17.35 (2b) (b) (c) and (d), Wis. Adm. Code, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 1998

Dear Senator Welch:

I will be promulgating an emergency rule. Attached is a draft of the rule for your review. The reasons for proceeding with an emergency rule are given in the Finding of Emergency in the rule. It will be published in the official State newspaper in about a week.

If you have any questions, please contact Alice M. Shuman at 266-9892 or e-mail at ashuman@mail.state.wi.us.

Best regards,

Randy Blumer

Commissioner of Insurance

RB:AS

Attachment: 1 copy draft rule



of Wisconsin Office of the Commissioner of Insurance



Tommy G. Thompson Governor

Randy Blumer Commissioner (Acting) May 20, 1998

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STATE OF WISCONSIN

OFFICE OF THE COMMISSIONER OF INSURANCE

SS

I, Randy Blumer, Commissioner of Insurance and custodian of the official records, certify that the annexed emergency rule affecting Sections Ins 17.01 (3) (intro), 17.28 (4) (cm), 17.28 (6a), 17.28 (6), 17.35 (2b) (title), and 17.35 (2b) (b) (c) and (d), Wis. Adm. Code, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 1998, is duly approved and adopted by this Office on May 20, 1998.

I further certify that I have compared this copy with the original on file in this Office and that it is a true copy of the original, and the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 121 East Wilson Street, Madison, Wisconsin, on May 20, 1998.

Randy Blumer

Commissioner of Insurance

PROPOSED ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE AND THE BOARD OF GOVERNORS OF THE PATIENTS COMPENSATION FUND AMENDING AND REPEALING AND RECREATING A RULE

The office of the commissioner of insurance and the board of governors of the patients compensation fund propose an order to amend s. Ins 17.01 (3) (intro.), s. Ins 17.28 (4) (cm), s. Ins 17.28 (6a), and s. Ins 17.35 (2b) (title), to repeal and recreate s. Ins 17.28 (6) and s. Ins 17.35 (2b) (b), and to create s. Ins 17.35 (2b) (c) and (d), relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 1998, to limit fund fee refund requests to the current and immediate prior year only, and to establish standards for the application of the aggregate underlying liability limits upon the termination of a claims-made policy.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE

Statutory authority: ss. 601.41 (3), 655.004, 655.23 (4), 655.27 (3) (b) and 655.61, Stats. Statutes interpreted: ss. 655.27 (3) and 655.23 (4), Stats.

The commissioner of insurance, with the approval of the board of governors (board) of the patients compensation fund (fund), is required to establish by administrative rule the annual fees which

participating health care providers must pay to the fund. This rule establishes those fees for the fiscal year beginning July 1, 1998. These fees incorporate changes to class 2 and 3 relativities based on experience factors with an overall impact of zero compared with fees paid for the 1997-98 fiscal year. The board approved this change in relativities with no overall increase in fees at its meeting on February 25, 1998, based on the recommendation of the board's actuarial and underwriting committee.

The board is also required to promulgate by rule the annual fees for the operation of the patients compensation mediation system, based on the recommendation of the director of state courts. This rule implements the director's funding level recommendation by establishing mediation panel fees for the next fiscal year at \$16.00 for physicians and \$1.00 per occupied bed for hospitals, representing a 50% decrease from 1997-98 fiscal year fees.

This rule also limits fund fee refunds to the current fiscal year and the immediate prior fiscal year in s. Ins 17.28 (4) (cm). This rule in s. Ins 17.35 (2b) (b), (c) and (d) sets standards for the application of the aggregate underlying liability limits upon the termination of a claims-made policy based on the actuarial equivalence of an occurrence policy.

FINDING OF EMERGENCY

The commissioner of insurance (commissioner) finds that an emergency exists and that promulgation of this emergency rule is necessary for the preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

The commissioner was unable to promulgate the permanent rule corresponding to this emergency rule, clearinghouse rule no. 98-048, in time for the patients compensation fund (fund) to bill health care providers in a timely manner for fees applicable to the fiscal year beginning July 1, 1998.

The commissioner expects that the permanent rule will be filed with the secretary of state in time to take effect September 1, 1998. Because the provisions of this rule first apply on July 1, 1998, it is necessary to promulgate the rule on an emergency basis. A hearing on the permanent rule, pursuant to published notice thereof, was held on May 8, 1998.

SECTION 1. Ins 17.01 (3) (intro.) is amended to read:

Ins 17.01 (3) FEE SCHEDULE. (intro.) The following fee schedule shall be effective July 1, 1997 1998.

SECTION 2. Ins 17.28 (4) (cm) is amended to read:

Ins 17.28 (4) (cm) Eligibility for exemption; refund. If a provider claims an exemption after paying all or part of the annual fee, the fund shall issue a refund equal to one twenty-fourth of the provider's annual fee for each full semi-monthly period from the date the provider becomes eligible for the exemption to the due date of the next payment. The refund for any past exemption period will be limited to the current fiscal year and the immediate prior fiscal year.

SECTION 3. Ins 17.28 (6a) is amended to read:

Ins 17.28 (6a) FEES FOR OCI APPROVED SELF-INSURED HEALTH CARE PROVIDERS. The following fee schedule is in effect from July 1, 1997 to June 30, 1998 1999 for OCI approved self-insured health care providers who elect, pursuant to s. 655.23 (4) (c) 2, Stats., to increase their per occurrence limit to \$600,000 for each occurrence on or after July 1, 1997, provided such self-insured provider has filed an amended self-insured plan document reflecting the increased coverage levels with the office of the commissioner of insurance and with the patients compensation fund on or before August 15, 1997:

The fees set forth in sub. (6) multiplied by 1.161.

SECTION 4. Ins 17.28 (6) is repealed and recreated to read:

Ins 17.28 (6) FEE SCHEDULE. The following fee schedule is in effect from July 1, 1998, to June 30, 1999:

(a) Except as provided in pars. (b) to (g) and sub. (6e), for a physician for whom this state is a principal place of practice:

Class 1	\$2,721	Class 3	\$11,292
Class 2	\$5.170	Class 4	\$16,326

(b) For a resident acting within the scope of a residency or fellowship program:

Class 1	\$1,361	Class 3	\$5,648
Class 2	\$2,586	Class 4	\$8,166

	(c) For a resident pra	cticing part-time	outside the scop	e of a residency or fellow	ship
program:	:				
	All classes			\$1,633	
	(d) For a medical col	ege of Wiscons	in, inc., full-time fa	aculty member:	
	Class 1	\$1,088	Class 3	\$4,515	
	Class 2	\$2,067	Class 4	\$6,528	
	(e) For a physician w	ho practices few	er than 500 hours	during the fiscal year, lin	nited to
office pra	ctice and nursing home	and house calls,	and who does no	ot practice obstetrics or su	irgery or
assist in s	surgical procedures:			\$680	
	(f) For a physician for	whom this state	is not a principal	place of practice:	
	Class 1	\$1,361	Class 3	\$5,648	
	Class 2	\$2,586	Class 4	\$8,166	
	(g) For a nurse anesti	netist for whom t	this state is a prin	cipal place of	
practice:				\$678	
	(h) For a nurse anesti	netist for whom t	his state is not a	orincipal place of	
practice:				\$339	
	(i) For a hospital:				
	1. Per occupied bed			\$167; plus	
	2. Per 100 outpatient	visits during the	last calendar yea	for which totals are	
available.				\$8.35	
	(j) For a nursing home	, as described u	inder s. 655.002 (1) (j), Stats., which is who	olly owned
and opera	ted by a hospital and wh	ich has health c	are liability insura	nce separate from that of	the
hospital by	which it is owned and o	perated:			
	Per occupied	l bed		\$31	
	(k) For a partnership o	omprised of phy	sicians or nurse a	inesthetists, organized fo	r the
orimary pu	rpose of providing the m	edical services	of physicians or n	urse anesthetists, all of th	e following
ees:					
	1. a. If the total numbe	r of partners and	f employed physic	cians and nurse anestheti	sts is from
2 to 10				\$95	
				,	

b. If the total number of partners and employed physicians and nurse anesthetists is from 11 to 100 \$947

c. If the total number of partners and employed physicians and nurse anesthetists

exceeds 100 \$2,368

2. The following fee for each of the following employes employed by the partnership as of July 1, 1998:

Employed Health Care Persons	July 1, 1998 Fund Fee
Nurse Practitioner	\$ 680
Advanced Nurse Practitioner	952
Nurse Midwives	5,986
Advanced Nurse Midwives	6,258
Advanced Practice Nurse Prescribers	952
Chiropractors	1,088
Dentists	544
Oral Surgeons	4,082
Podiatrists-Surgical	11,564
Optometrists	544
Physician Assistant	544

- (L) For a corporation, including a service corporation, with more than one shareholder organized under ch. 180, Stats., for the primary purpose of providing the medical services of physicians or nurse anesthetists, all of the following fees:
- 1. a. If the total number of shareholders and employed physicians and nurse anesthetists is from 2 to 10 \$95
- b. If the total number of shareholders and employed physicians and nurse anesthetists is from 11 to 100 \$947
- c. If the total number of shareholders and employed physicians or nurse anesthetists exceeds 100 \$2,368

2. The following for each of the following employes employed by the corporation as of July 1, 1998:

Employed Health Care Persons	July 1, 1998 Fund Fee
Nurse Practitioner	\$ 680
Advanced Nurse Practitioner	952
Nurse Midwives	5,986
Advanced Nurse Midwives	6,258
Advanced Practice Nurse Prescribers	952
Chiropractors	1,088
Dentists	544
Oral Surgeons	4,082
Podiatrists-Surgical	11,564
Optometrists	544
Physician Assistant	544

- (m) For a corporation organized under ch. 181, Stats., for the primary purpose of providing the medical services of physicians or nurse anesthetists, all of the following fees:
 - 1. a. If the total number of employed physicians and nurse anesthetists is from

1 to 10

\$95

b. If the total number of employed physicians and nurse anesthetists is from

11 to 100

\$947

c. If the total number of employed physicians or nurse anesthetists

exceeds 100

\$2,368

2. The following for each of the following employes employed by the corporation as of July 1, 1998:

Employed Health Care Persons	July 1, 1998 Fund Fee	
Nurse Practitioner	\$ 680	
Advanced Nurse Practitioner	952	
Nurse Midwives	5,986	
Advanced Nurse Midwives	6,258	

Advanced Practice Nurse Prescribers	952
Chiropractors	1,088
Dentists	544
Oral Surgeons	4,082
Podiatrists-Surgical	11,564
Optometrists	544
Physician Assistant	544

(n) For an operational cooperative sickness care plan as described under s. 655.002 (1) (f), Stats., all of the following fees:

1. Per 100 outpatient visits during the last calendar year for which totals are available \$0.20.

- 2. 2.5% of the total annual fees assessed against all of the employed physicians.
- 3. The following for each of the following employes employed by the operational cooperative sickness plan as of July 1, 1998:

Employed Health Care Persons	July 1, 1998 Fund Fee
Nurse Practitioner	\$ 680
Advanced Nurse Practitioner	952
Nurse Midwives	5,986
Advanced Nurse Midwives	6,258
Advanced Practice Nurse Prescribers	952
Chiropractors	1,088
Dentists	544
Oral Surgeons	4,082
Podiatrists-Surgical	11,564
Optometrists	544
Physician Assistant	544

(o) For a freestanding ambulatory surgery center, as defined in s. Ins 120.03 (10):

Per 100 outpatient visits during the last calendar year for which totals are

available

\$40

- (p) For an entity affiliated with a hospital, the greater of \$100 or whichever of the following applies:
- 1. 7% of the amount the entity pays as premium for its primary health care liability insurance, if it has occurrence coverage.
- 2. 10% of the amount the entity pays as premium for its primary health care liability insurance, if it has claims-made coverage.

SECTION 5. Ins 17.35 (2b) (title) is amended to read:

Ins 17.35 (2b) (title) AGGREGATE LIMITS; UNLIMITED EXTENDED REPORTING ENDORSEMENTS.

SECTION 6. Ins 17.35 (2b) (b) is repealed and recreated to read:

Ins 17.35 (2b) (b) <u>Highest aggregate limit applies</u>. 1. 'Claims-made coverage' The aggregate limit applicable to all claims reported during a reporting year of a claims-made policy shall be the highest limit specified in s. 655.23 (4) (b), Stats., that applies during the reporting year.

2. 'Occurrence coverage.' The limit applicable to all occurrences during an occurrence year of an occurrence policy shall be the highest limit specified in s. 655.23 (4), Stats., that applies during the occurrence year.

SECTION 7. Ins 17.35 (2b) (c) is created to read:

Ins 17.35 (2b) (c) <u>Unlimited extended reporting endorsements issued before January 1, 1999.</u> Before January 1, 1999, the aggregate limit applicable to an unlimited extended reporting endorsement shall be one of the following:

- 1. The total amount of the annual aggregate limit specified in s. 655.23 (4), Stats., as it applied on the date of the occurrence, shall be available for each occurrence year, less amounts previously paid under any policy for that occurrence year.
- 2. The following minimum percentage of the annual aggregate limit specified in s. 655.23 (4), Stats., as it applied to the last reporting year of the canceled or nonrenewed claims-made policy shall be available for all claims reported under the extended reporting endorsement: 100% when the policy was in effect for 1 year or less, including any retroactive coverage period; 130% when the policy was in effect for more than 1 year, but less than or equal to 2 years, including any retroactive coverage period; 150% when the policy was in effect for more than 2 years, but less than or equal to 3 years,

including any retroactive coverage period; 160% when the policy was in effect for more than 3 years, including any retroactive coverage period.

SECTION 8. Ins 17.35 (2b) (d) is created to read:

Ins 17.3 (2b) (d) <u>Unlimited extended reporting endorsements issued on and after January 1, 1999.</u> On and after January 1, 1999 the minimum aggregate limit applicable to an unlimited extended reporting endorsement shall be that specified in subd. (c) 2.

SECTION 9. INITIAL APPLICABILITY. This rule first applies on July 1, 1998.

SECTION 10. <u>EFFECTIVE DATE</u>. This rule will take effect on the first day of the first month after publication, as provided in s. 227.22 (2) (intro), Stats.

Dated at Madison, Wisconsin, this 18th day of May 1998.

Randy Shime

Randy Blumer

Commissioner of Insurance (Acting)

ISCAL ESTIMATE WORKSHEET 1995 Session ctailed Estimate of Annual Fiscal Effect S ORIGINAL ☐ urdated LRS or Bill No Adm. Rule No. Amendment No OA-2047 (R10/94) Ins 17.01, 17.28 CORRECTED ☐ SUPPLEMENTAL bject Relating to annual Patients Compensation Fund fees for fiscal year 1998-1999 One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect): Annualized Costs: Annualized Fiscal impact on State funds from: Decreased Costs Increased Costs State Costs by Category State Operations - Salaries and Fringes \$ \$ (FTE Position Changes) FTE) FTE State Operations - Other Costs Local Assistance Aids to Individuals or Organizations TOTAL State Costs by Category 5 \$ State Costs by Source of Funds increased Costs Decreased Costs \$ \$ GPR FED PRO/PRS SEG/SEG-S State Revenues -Complete this only when proposal will increase or decrease state Increased Rev. Decreased Rev. revenues (e.g., tax increase, decrease in license fee, etc.) GPR Taxes \$ GPR Earned 550 PRO/PRS SEG/SEG-S \$ **TOTAL State Revenues** -0--0-NET ANNUALIZED FISCAL IMPACT STATE LCCAL T CHANGE IN COSTS T CHANGE IN REVENUES ency/Prepared by: (Name & Phone No.) Authorized Signature/Telephone No. 3/11/98 PCF/Theresa Wedekind 608-266-0953

Randy Blumer, Commissioner

			<u> </u>	1995 Session	
	☑ ORIGINAL ☐ UPDATED		LRBo	r Bill No./Adm. Rule No.	
FISCAL ESTIMATE	FISCAL ESTIMATE O CORRECTED O SUPPLEMENTAL			17.01,17.28	
DOA-2048 N(R10/94)			Ameno	dment No. if Applicable	
Subject			<u> </u>		
Relating to annual Patients	Commensation Fu	nd food for fin	1 1000	* 0.00	
Fiscal Effect		M rees rot rize	<u>aar Aear 1888-</u>	T999 .	
State: State Fiscal Effect					
Check columns below only if bill make			☐ Increase Costs -	May be possible to Absorb	
or affects a sum sufficient appri	opriation.		Within Agency's B	ithin Agency's Budget 🔲 Yes 🔲 No	
☐ Increase Existing Appropriation	(_			
Decrease Existing Appropriation	☐ Increase Existi ☐ Decrease Existi				
☐ Create New Appropriation		and weakings	☐ Decrease Costs		
Local: No local government costs	;		<u> </u>		
1. Increase Costs	3. Increase Reve	nues	5. Types of Local	Governmental Units Affected:	
. Permissive				Villages	
2. Decrease Costs	4. 🗆 Decrease Rev			Others	
Permissive	☐ Permissive	· 🔲 Mandatory	☐ School Districts	☐ WTCS Districts	
Fund Sources Affected ☐ GPR ☐ FED ☐ PRO ☐	•	Affected C	h. 20 Appropriations		
Assumptions Used in Arriving at Fiscal E		S J			
and the state of t	Brit 1 Harra			•	
The Patients Compensation	on Fund (Fund) i	s a segregated	fund. Annual	Fund	
lees are established to	become effective	e each July 1	hacod on activa-		
estimates of the thia.a	needs for paymen	it of medical m	alpractice ela	ima	
The proposed fees were a meeting.	approved by the	Fund's Board at	its February	25, 1998,	
			•		
There is no effect on G	PR.				
·					
Estimated revenue for fi	scal year 1998-1	1999 is approxim	nately S50 6 m ²	illion	
which represents a zero	percent increase	to fiscal year	1997-1998 rev	venues.	
		-			
		^			
Long-Range Fiscal Implications					
Agency Benned L. D					
Agency/Prepared by: (Name & Phone No.)	Author	ized Signature/Telepho	ne No.	Oate	
PCF/Theresa Wedekind 60	18-266-0958	andy Slum		3/2/98	

Randy Blumer, Commissioner

${\it END}$



 \mathcal{END}



of Wisconsin Office of the commissioner of insurance



Tommy G. Thompson Governor

Randy Blumer Commissioner (Acting) May 26, 1998

121 East Wilson Street P.O. Box 7873 Madison, Wisconsin 53707-7873

(608) 266-3585

http://badger.state.wi.us/agencies/oci/oci_home.htm

HONORABLE ROBERT WELCH SENATE CO-CHAIRPERSON JOINT COMM FOR REVIEW OF ADM RULES 1 EAST MAINS STREET RM 201 MADISON WI 53702

Re:

Emergency Rule, Sections Ins 17.01 (3) (intro), 17.28 (4) (cm), 17.28 (6a), 17.28 (6), 17.35 (2b) (title), and 17.35 (2b) (b) (c) and (d), Wis. Adm. Code, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 1998

Dear Senator Welch:

I am promulgating the attached rule as an emergency rule. It will be published in the official State newspaper on May 28, 1998.

If you have any questions, please contact Alice M. Shuman at 266-9892 or e-mail at ashuman@mail.state.wi.us.

Best regards,

Randy Blumer

Commissioner of Insurance

RB:AS

Attachment: 1 copy rule



of $\mathbf{Wisconsin}$ /office of the commissioner of insurance



Tommy G. Thompson Governor

Randy Blumer Commissioner (Acting) May 20, 1998

121 East Wilson Street P.O. Box 7873 Madison, Wisconsin 53707-7873

(608) 266-3585

http://badger.state.wi.us/agencies/oci/oci_home.htm

STATE OF WISCONSIN

OFFICE OF THE COMMISSIONER OF INSURANCE

STATE OF WISCONSIN RECEIVED & FILED

MAY 2 | 1998

DOUGLAS LA FOLLET LE SECRETARY OF STATE

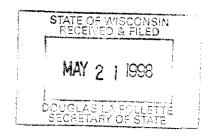
I, Randy Blumer, Commissioner of Insurance and custodian of the official records, certify that the annexed emergency rule affecting Sections Ins 17.01 (3) (intro), 17.28 (4) (cm), 17.28 (6a), 17.28 (6), 17.35 (2b) (title), and 17.35 (2b) (b) (c) and (d), Wis. Adm. Code, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 1998, is duly approved and adopted by this Office on May 20, 1998.

I further certify that I have compared this copy with the original on file in this Office and that it is a true copy of the original, and the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 121 East Wilson Street, Madison, Wisconsin, on May 20, 1998.

Randy Blumer

Commissioner of Insurance



PROPOSED ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE AND THE BOARD OF GOVERNORS OF THE PATIENTS COMPENSATION FUND AMENDING AND REPEALING AND RECREATING A RULE

The office of the commissioner of insurance and the board of governors of the patients compensation fund propose an order to amend s. Ins 17.01 (3) (intro.), s. Ins 17.28 (4) (cm), s. Ins 17.28 (6a), and s. Ins 17.35 (2b) (title), to repeal and recreate s. Ins 17.28 (6) and s. Ins 17.35 (2b) (b), and to create s. Ins 17.35 (2b) (c) and (d), relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 1998, to limit fund fee refund requests to the current and immediate prior year only, and to establish standards for the application of the aggregate underlying liability limits upon the termination of a claims-made policy.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE

Statutory authority: ss. 601.41 (3), 655.004, 655.23 (4), 655.27 (3) (b) and 655.61, Stats.

Statutes interpreted: ss. 655.27 (3) and 655.23 (4), Stats.

The commissioner of insurance, with the approval of the board of governors (board) of the patients compensation fund (fund), is required to establish by administrative rule the annual fees which

participating health care providers must pay to the fund. This rule establishes those fees for the fiscal year beginning Júly 1, 1998. These fees incorporate changes to class 2 and 3 relativities based on experience factors with an overall impact of zero compared with fees paid for the 1997-98 fiscal year. The board approved this change in relativities with no overall increase in fees at its meeting on February 25, 1998, based on the recommendation of the board's actuarial and underwriting committee.

The board is also required to promulgate by rule the annual fees for the operation of the patients compensation mediation system, based on the recommendation of the director of state courts. This rule implements the director's funding level recommendation by establishing mediation panel fees for the next fiscal year at \$16.00 for physicians and \$1.00 per occupied bed for hospitals, representing a 50% decrease from 1997-98 fiscal year fees.

This rule also limits fund fee refunds to the current fiscal year and the immediate prior fiscal year in s. Ins 17.28 (4) (cm). This rule in s. Ins 17.35 (2b) (b), (c) and (d) sets standards for the application of the aggregate underlying liability limits upon the termination of a claims-made policy based on the actuarial equivalence of an occurrence policy.

FINDING OF EMERGENCY

The commissioner of insurance (commissioner) finds that an emergency exists and that promulgation of this emergency rule is necessary for the preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

The commissioner was unable to promulgate the permanent rule corresponding to this emergency rule, clearinghouse rule no. 98-048, in time for the patients compensation fund (fund) to bill health care providers in a timely manner for fees applicable to the fiscal year beginning July 1, 1998.

The commissioner expects that the permanent rule will be filed with the secretary of state in time to take effect September 1, 1998. Because the provisions of this rule first apply on July 1, 1998, it is necessary to promulgate the rule on an emergency basis. A hearing on the permanent rule, pursuant to published notice thereof, was held on May 8, 1998.

SECTION 1. Ins 17.01 (3) (intro.) is amended to read:

Ins 17.01 (3) FEE SCHEDULE. (intro.) The following fee schedule shall be effective July 1, 1997 1998.

SECTION 2. Ins 17.28 (4) (cm) is amended to read:

Ins 17.28 (4) (cm) Eligibility for exemption; refund. If a provider claims an exemption after paying all or part of the annual fee, the fund shall issue a refund equal to one twenty-fourth of the provider's annual fee for each full semi-monthly period from the date the provider becomes eligible for the exemption to the due date of the next payment. The refund for any past exemption period will be limited to the current fiscal year and the immediate prior fiscal year.

SECTION 3. Ins 17.28 (6a) is amended to read:

Ins 17.28 (6a) FEES FOR OCI APPROVED SELF-INSURED HEALTH CARE PROVIDERS. The following fee schedule is in effect from July 1, 1997 to June 30, 1998 1999 for OCI approved self-insured health care providers who elect, pursuant to s. 655.23 (4) (c) 2, Stats., to increase their per occurrence limit to \$600,000 for each occurrence on or after July 1, 1997, provided such self-insured provider has filed an amended self-insured plan document reflecting the increased coverage levels with the office of the commissioner of insurance and with the patients compensation fund on or before August 15, 1997:

The fees set forth in sub. (6) multiplied by 1.161.

SECTION 4. Ins 17.28 (6) is repealed and recreated to read:

Ins 17.28 (6) FEE SCHEDULE. The following fee schedule is in effect from July 1, 1998, to June 30, 1999:

(a) Except as provided in pars. (b) to (g) and sub. (6e), for a physician for whom this state is a principal place of practice:

Class 1	\$2,721	Class 3	\$11,292	
Class 2	\$5.170	Class 4	\$16,326	

(b) For a resident acting within the scope of a residency or fellowship program:

Class 1	\$1,361	Class 3	\$5,648	
Class 2	\$2,586	Class 4	\$8,166	

	(c) For a resident pe	racticing part-time	outside the scop	e of a residency or fellowship	
program:					
	All classes	5		\$1,633	
	(d) For a medical co	llege of Wisconsi	in, inc., full-time fa	aculty member:	
	Class 1	\$1,088	Class 3	\$4,515	
	Class 2	\$2,067	Class 4	\$6,528	
	(e) For a physician v	vho practices few	er than 500 hours	during the fiscal year, limited	to
office prac	ctice and nursing home	and house calls,	and who does no	t practice obstetrics or surger	ry or
assist in s	urgical procedures:			\$680	
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practice:				\$678	
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practice:				\$339	
	(i) For a hospital:				
	1. Per occupied bed			\$167; plus	
	2. Per 100 outpatient	visits during the I	ast calendar year	for which totals are	
available.				\$8.35	
	(j) For a nursing hom	e, as described u	nder s. 655.002 (1	l) (j), Stats., which is wholly or	wned
and operat	ed by a hospital and wl	nich has health ca	re liability insurar	ce separate from that of the	
hospital by	which it is owned and	operated:			
	Per occupie	d bed		\$31	
	(k) For a partnership	comprised of phys	sicians or nurse a	nesthetists, organized for the	
orimary pur	pose of providing the n	nedical services o	of physicians or nu	rse anesthetists, all of the foll	lowing
ees:					
	1. a. If the total number	er of partners and	employed physic	ans and nurse anesthetists is	from
2 to 10				\$95	

b. If the total number of partners and employed physicians and nurse anesthetists is from 11 to 100 \$947

c. If the total number of partners and employed physicians and nurse anesthetists exceeds 100 \$2,368

2. The following fee for each of the following employes employed by the partnership as of July 1, 1998:

Employed Health Care Persons	July 1, 1998 Fund Fee
Nurse Practitioner	\$ 680
Advanced Nurse Practitioner	952
Nurse Midwives	5,986
Advanced Nurse Midwives	6,258
Advanced Practice Nurse Prescribers	952
Chiropractors	1,088
Dentists	544
Oral Surgeons	4,082
Podiatrists-Surgical	11,564
Optometrists	544
Physician Assistant	544

- (L) For a corporation, including a service corporation, with more than one shareholder organized under ch. 180, Stats., for the primary purpose of providing the medical services of physicians or nurse anesthetists, all of the following fees:
- 1. a. If the total number of shareholders and employed physicians and nurse anesthetists is from 2 to 10 \$95
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- c. If the total number of shareholders and employed physicians or nurse anesthetists exceeds 100 \$2,368

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Dentists	544
Oral Surgeons	4,082
Podiatrists-Surgical	11,564
Optometrists	544
Physician Assistant	544

- (m) For a corporation organized under ch. 181, Stats., for the primary purpose of providing the medical services of physicians or nurse anesthetists, all of the following fees:
 - 1. a. If the total number of employed physicians and nurse anesthetists is from

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c. If the total number of employed physicians or nurse anesthetists

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Advanced Practice Nurse Prescribers	952
Chiropractors	1,088
Dentists	544
Oral Surgeons	4,082
Podiatrists-Surgical	11,564
Optometrists	544
Physician Assistant	544

- (n) For an operational cooperative sickness care plan as described under s. 655.002 (1) (f), Stats., all of the following fees:
- 1. Per 100 outpatient visits during the last calendar year for which totals are available \$0.20.
 - 2. 2.5% of the total annual fees assessed against all of the employed physicians.
- 3. The following for each of the following employes employed by the operational cooperative sickness plan as of July 1, 1998:

Employed Health Care Persons	July 1, 1998 Fund Fee
Nurse Practitioner	\$ 680
Advanced Nurse Practitioner	952
Nurse Midwives	5,986
Advanced Nurse Midwives	6,258
Advanced Practice Nurse Prescribers	952
Chiropractors	1,088
Dentists	544
Oral Surgeons	4,082
Podiatrists-Surgical	11,564
Optometrists	544
Physician Assistant	544

(o) For a freestanding ambulatory surgery center, as defined in s. Ins 120.03 (10):

Per 100 outpatient visits during the last calendar year for which totals are

available

\$40

- (p) For an entity affiliated with a hospital, the greater of \$100 or whichever of the following applies:
- 1. 7% of the amount the entity pays as premium for its primary health care liability insurance, if it has occurrence coverage.
- 2. 10% of the amount the entity pays as premium for its primary health care liability insurance, if it has claims-made coverage.

SECTION 5. Ins 17.35 (2b) (title) is amended to read:

Ins 17.35 (2b) (title) AGGREGATE LIMITS; UNLIMITED EXTENDED REPORTING ENDORSEMENTS.

SECTION 6. Ins 17.35 (2b) (b) is repealed and recreated to read:

Ins 17.35 (2b) (b) <u>Highest aggregate limit applies.</u> 1. 'Claims-made coverage' The aggregate limit applicable to all claims reported during a reporting year of a claims-made policy shall be the highest limit specified in s. 655.23 (4) (b), Stats., that applies during the reporting year.

2. 'Occurrence coverage.' The limit applicable to all occurrences during an occurrence year of an occurrence policy shall be the highest limit specified in s. 655.23 (4), Stats., that applies during the occurrence year.

SECTION 7. Ins 17.35 (2b) (c) is created to read:

Ins 17.35 (2b) (c) <u>Unlimited extended reporting endorsements issued before January 1, 1999.</u> Before January 1, 1999, the aggregate limit applicable to an unlimited extended reporting endorsement shall be one of the following:

- 1. The total amount of the annual aggregate limit specified in s. 655.23 (4), Stats., as it applied on the date of the occurrence, shall be available for each occurrence year, less amounts previously paid under any policy for that occurrence year.
- 2. The following minimum percentage of the annual aggregate limit specified in s. 655.23 (4), Stats., as it applied to the last reporting year of the canceled or nonrenewed claims-made policy shall be available for all claims reported under the extended reporting endorsement: 100% when the policy was in effect for 1 year or less, including any retroactive coverage period; 130% when the policy was in effect for more than 1 year, but less than or equal to 2 years, including any retroactive coverage period; 150% when the policy was in effect for more than 2 years, but less than or equal to 3 years,

including any retroactive coverage period; 160% when the policy was in effect for more than 3 years, including any retroactive coverage period.

SECTION 8. Ins 17.35 (2b) (d) is created to read:

Ins 17.3 (2b) (d) Unlimited extended reporting endorsements issued on and after January 1. 1999. On and after January 1, 1999 the minimum aggregate limit applicable to an unlimited extended reporting endorsement shall be that specified in subd. (c) 2.

SECTION 9. INITIAL APPLICABILITY. This rule first applies on July 1, 1998.

SECTION 10. EFFECTIVE DATE. This rule will take effect on the first day of the first month after publication, as provided in s. 227.22 (2) (intro), Stats.

Dated at Madison, Wisconsin, this 18th day of May 1996.

Aundy Slume

Commissioner of Insurance (Acting)

SCAL ESTIMATE WORKSHEET	Γ				199	95 Se	ssion	•
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Randy Blumer, Commissioner

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State of Wisconsin/OFFICE OF THE COMMISSIONER OF INSURANCE



Tommy G. Thompson Governor

Randy Blumer Commissioner (Acting) June 12, 1998

121 East Wilson Street • P.O. Box 7873 Madison, Wisconsin 53707-7873 Phone: (608) 266-3585 • Fax: (608) 266-9935

E-Mail: ocioci@mail.state.wi.us http://badger.state.wi.us/agencies/oci/oci_home.htm

HONORABLE ROBERT WELCH SENATE CO-CHAIRPERSON JOINT COMM FOR REVIEW OF ADM RULES 1 EAST MAIN ST RM 201 MADISON WI 53702

1412

Re:

Emergency Rule, Section Ins 17.01(3)(intro.), (a) and (b), Wis. Adm. Code, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 1998

Dear Senator Welch:

I will be promulgating an emergency rule. Attached is a draft of the rule for your review. The reasons for proceeding with an emergency rule are given in the Finding of Emergency in the rule. It will be published in the official State newspaper in about a week.

If you have any questions, please contact Alice M. Shuman at 266-9892 or e-mail at ashuman@mail.state.wi.us.

Best regards,

Randy Blumer

Commissioner of Insurance

RB:AS

Attachment: 1 copy draft rule



State of Wisconsin Office of the Commissioner of Insurance



Tommy G. Thompson Governor

Randy Blumer Commissioner (Acting) June 12, 1998

121 East Wilson Street • P.O. Box 7873 Madison, Wisconsin 53707-7873 Phone: (608) 266-3585 • Fax: (608) 266-9935

E-Mail: ocioci@mail.state.wi.us http://badger.state.wi.us/agencies/oci/oci_home.htm

STATE OF WISCONSIN

OFFICE OF THE COMMISSIONER OF INSURANCE

I, Randy Blumer, Commissioner of Insurance and custodian of the official records, certify that the annexed emergency rule affecting Section Ins 17.01(3)(intro.), (a) and (b), Wis. Adm. Code, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 1998, is duly approved and adopted by this Office on June 12, 1998.

I further certify that I have compared this copy with the original on file in this Office and that it is a true copy of the original, and the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 121 East Wilson Street, Madison, Wisconsin, on June 12, 1998.

Randy Blumer

ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE AND THE BOARD OF GOVERNORS OF THE PATIENTS COMPENSATION FUND AMENDING AND REPEALING AND RECREATING A RULE

The office of the commissioner of insurance and the board of governors of the patients compensation fund propose an order to amend ss. Ins 17.01 (3) (intro.), (a) and (b), relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 1998.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE
Statutory authority: ss. 601.41 (3), 655.004, 655.23 (4), 655.27 (3) (b) and
655.61. Stats.

Statutes interpreted: ss. 655.27 (3) and 655.23 (4), Stats.

The commissioner of insurance, with the approval of the board of governors (board) of the patients compensation fund (fund), is required to promulgate by rule the annual fees for the operation of the patients compensation fund mediation system, based upon the recommendation of the director of state courts. This rule implements the director's funding level recommendation by establishing mediation panel fees for the 1998-99 fiscal year at \$16.00 for physicians and \$1.00 per occupied bed for hospitals, representing a 50% decrease from 1997-98 fiscal year fees. The fees established by this rule are effective for the fiscal year beginning July 1, 1998.

FINDING OF EMERGENCY

The commissioner of insurance (commissioner) finds that an emergency exists and that promulgation of this emergency rule is necessary for the preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

This emergency rule relating to mediation fees corresponds to the emergency rule relating to fund fees published in the Wisconsin State Journal on May 28, 1998. As the permanent rulemaking process takes a minimum of nine months to complete, and the fund's actuaries' recommendations are made in February each year, the commissioner was unable to promulgate the permanent rule, clearinghouse rule no. 98-048, in time for the patients compensation fund (fund) to notify and bill health care providers in a timely manner for fees applicable to the fiscal year beginning July 1, 1998.

This emergency rule is necessary to establish mediation fees applicable to the fiscal year 1998-99 in a timely manner. A germane amendment to the permanent rule was made on June 12, 1998 to include the reduced mediation fees. The commissioner expects that the permanent rule will be filed with the secretary of state in time to take effect September 1, 1998. Because the provisions of this rule first apply on July 1, 1998, it is necessary to promulgate the rule on an emergency basis. A hearing on the permanent rule, pursuant to published notice thereof, was held on May 8, 1998.

SECTION 1. Ins 17.01 (3)(intro), (a) and (b) are amended to read:

Ins 17.01 (3) FEE SCHEDULE. (intro.) The following fee schedule shall be effective July 1, 1997 1998:

- (a) For physicians—\$38.00 \$16.00
- (b) For hospitals, per occupied bed \$3.00 \$1.00

SECTION 2. <u>INITIAL APPLICABILITY</u>. This rule first applies on July 1, 1998.

SECTION 3. <u>EFFECTIVE DATE</u>. This rule will take effect upon publication, as provided in s. 227.24, Stats.

Dated at Madison, Wisconsin, this 12th day of June 1998

Randy Blumer

FISCAL ESTIMATE WORKSHEET	Γ			199	5 Session	•
Detailed Estimate of Annual Fiscal Effect 20A-2047 (R10/94)	ORIGINAL CORRECTED	UPDATED UPDATED SUPPLEMENTAL		la /Adm. Rule N 17.01., 17.	g. Amendm	
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State of Wisconsin/OFFICE OF THE COMMISSIONER OF INSURANCE



Tommy G. Thompson Governor

Randy Blumer Commissioner (Acting) June 17, 1998

121 East Wilson Street • P.O. Box 7873
Madison, Wisconsin 53707-7873
Phone: (608) 266-3585 • Fax: (608) 266-9935
E-Mail: ocioci @mail.state.wi.us
http://badger.state.wi.us/agencies/oci/oci_home.htm

Members of the Legislature

Re: Emergency Rule, Section Ins 17.01(3)(intro.), (a) and (b), Wis. Adm. Code, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 1998

Dear Senator or Representative to the Assembly:

I have promulgated the attached rule as an emergency rule. The rule will be published in the official State newspaper on June 19, 1998.

The attached copy of the rule includes the Finding of Emergency which required promulgation of the rule.

If you have any questions, please contact Alice M. Shuman at 266-9892 or e-mail at ashuman@mail.state.wi.us.

Best regards,

Randy Blumer

Commissioner of Insurance

RB:AS

Attachment: 1 copy rule



State of Wisconsin OFFICE OF THE COMMISSIONER OF INSURANCE



Tommy G. Thompson Governor

Randy Blumer Commissioner (Acting) June 12, 1998

121 East Wilson Street • P.O. Box 7873 Madison, Wisconsin 53707-7873 Phone: (608) 266-3585 • Fax: (608) 266-9935

E-Mail: ocioci@mail.state.wi.us http://badger.state.wi.us/agencies/oci/oci_home.htm

STATE OF WISCONSIN

OFFICE OF THE COMMISSIONER OF INSURANCE

SS



I, Randy Blumer, Commissioner of Insurance and custodian of the official records, certify that the annexed emergency rule affecting Section Ins 17.01(3)(intro.), (a) and (b), Wis. Adm. Code, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 1998, is duly approved and adopted by this Office on June 12, 1998.

I further certify that I have compared this copy with the original on file in this Office and that it is a true copy of the original, and the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 121 East Wilson Street, Madison, Wisconsin, on June 12, 1998.

Randy Blumer



ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE

AND THE BOARD OF GOVERNORS OF THE PATIENTS COMPENSATION FUND

AMENDING AND REPEALING AND RECREATING A RULE

The office of the commissioner of insurance and the board of governors of the patients compensation fund propose an order to amend ss. Ins 17.01 (3) (intro.), (a) and (b), relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 1998.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE
Statutory authority: ss. 601.41 (3), 655.004, 655.23 (4), 655.27 (3) (b) and
655.61, Stats.

Statutes interpreted: ss. 655.27 (3) and 655.23 (4), Stats.

The commissioner of insurance, with the approval of the board of governors (board) of the patients compensation fund (fund), is required to promulgate by rule the annual fees for the operation of the patients compensation fund mediation system, based upon the recommendation of the director of state courts. This rule implements the director's funding level recommendation by establishing mediation panel fees for the 1998-99 fiscal year at \$16.00 for physicians and \$1.00 per occupied bed for hospitals, representing a 50% decrease from 1997-98 fiscal year fees. The fees established by this rule are effective for the fiscal year beginning July 1, 1998.

FINDING OF EMERGENCY

The commissioner of insurance (commissioner) finds that an emergency exists and that promulgation of this emergency rule is necessary for the preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

This emergency rule relating to mediation fees corresponds to the emergency rule relating to fund fees published in the Wisconsin State Journal on May 28, 1998. As the permanent rulemaking process takes a minimum of nine months to complete, and the fund's actuaries' recommendations are made in February each year, the commissioner was unable to promulgate the permanent rule, clearinghouse rule no. 98-048, in time for the patients compensation fund (fund) to notify and bill health care providers in a timely manner for fees applicable to the fiscal year beginning July 1, 1998.

This emergency rule is necessary to establish mediation fees applicable to the fiscal year 1998-99 in a timely manner. A germane amendment to the permanent rule was made on June 12, 1998 to include the reduced mediation fees. The commissioner expects that the permanent rule will be filed with the secretary of state in time to take effect September 1, 1998. Because the provisions of this rule first apply on July 1, 1998, it is necessary to promulgate the rule on an emergency basis. A hearing on the permanent rule, pursuant to published notice thereof, was held on May 8, 1998.

SECTION 1. Ins 17.01 (3)(intro), (a) and (b) are amended to read:

Ins 17.01 (3) FEE SCHEDULE. (intro.) The following fee schedule shall be effective July 1, $\frac{1997}{1998}$:

- (a) For physicians \$38.00 \$16.00
- (b) For hospitals, per occupied bed—\$3.00 \$1.00

SECTION 2. <u>INITIAL APPLICABILITY</u>. This rule first applies on July 1, 1998.

SECTION 3. <u>EFFECTIVE DATE</u>. This rule will take effect upon publication, as provided in s. 227.24, Stats.

Dated at Madison, Wisconsin, this 12th day of June 1998

Randy Blumer

SCAL ESTIMATE WORKSHEE				1995 Session			
tailed Estimate of Annual Fiscal Effect A-2047 (R10094)	ORIGINAL CORRECTED	☐ UPDATED ☐ SUPPLEMENTAL	LRS or Bill No /Adm. Rule No. Ins 17.01, 17.28		Amendment No		
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					f			
	or affects a sum sufficient appropriation.		☐ Increase C Within Age	asts - May be possible to Absorb				
	☐ Increase Existing Appropriation		sting Reve	nues				
	Uecrease Existing Appropriation Create New Appropriation	U Decrease Existing Appropriation		☐ Decrease (2 Costs			
	Local: No local government of	csts			1			
•	I. Increase Costs	— 3. ☐ Increase Re			5. Types of	Local Governmental Unite Affactact		
2	. Permissive Mandal Decrease Costs			Mandatory	☐ Towns	☐ Valages ☐ Cities		
	~ • • • • • •			Mandatory				
۶	Fund Sources Affected	•						
۾			<u>G-S</u>					
	· · · · · · · · · · · · · · · · · · ·	M SOURCE				•		
	The Patients Compensat	tion Fund (Fund)	i	a	e. , .	_		
	are coloured;	O DECTOR ATTACES	7-0 00m					
		a licelly for natan	ant at	mariant	- 7 · · · · ·	• .		
	meeting.	approved by the	Fund's	s Board at	its Februa	ary 25, 1998.		
	••••••••••••				•	•		
	There is no effect on	GPR.						
	Parimared rovenue for	-						
	which represents a zer	Tiscal year 1998. To percent increas	-1999 j	is approxim	ately \$50.	6 million,		
	·		36 'O T	nacar year	. 1997-1998	revenues.		
	ng-Range Fiscal Implications	MATE CORRECTED SUPPLEMENTAL Tax 17.01.17.28 Amendment No. if Applicable						
	a grant or an arrigination of							
	acceptances have the			· · · · · · · · · · · · · · · · · · ·				
, ~		Autho	irized Sig	nature/Telephon	e No.			
	PCF/Theresa Wedekind	608-266-095h	Lunde	1. /2m.	_	3/2/98		